

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAY 22 2009
CLERK, U.S. DISTRICT COURT
By _____
Deputy

IVERY T. WILLIAMS, PRO SE,
A.K.A. IVERY TRAVENIO WILLIAMS,
TDCJ-CID #183233

Plaintiff,

v. § 2:09-CV-0061

RISSI OWENS, in her individual capacity, and §
NATHANIEL QUARTERMAN, in his §
individual capacity, §

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

Plaintiff IVERY T. WILLIAMS, while a prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division, filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-referenced defendants. Plaintiff paid the filing fee and is not proceeding *in forma pauperis*.

On May 8, 2009, a Report and Recommendation was issued by the United States Magistrate Judge analyzing plaintiff's claims and recommending dismissal with prejudice to being reasserted again until the *Heck* conditions are met and without prejudice for failure to state a claim on which relief can be granted.

Plaintiff filed his Objections on May 20, 2009.

By his objections, plaintiff contends he has served his previous six life sentences¹ and has been illegally incarcerated for the past ten years because he should have been released on mandatory supervised release in 1999, on his 99-year sentence for aggravated robbery. Plaintiff expressly sues the defendants in their individual capacities, not in their official capacities. He has failed to allege facts sufficient to state a claim against the defendants in their individual capacities. Plaintiff is not entitled to the various forms of monetary relief he has requested, and an award of relief would cast doubt on the validity of his incarceration and is barred by *Heck*.. Lastly, a grant of injunctive relief, *i.e.*, that plaintiff be released on mandatory supervised release, must be obtained through habeas corpus.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation, as well as the Objections filed by the plaintiff.

The Court is of the opinion that the objections of the plaintiff should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court, as supplemented herein.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge, as supplemented herein.

IT IS THEREFORE ORDERED that this Civil Rights Complaint is DISMISSED WITH PREJUDICE TO BEING ASSERTED AGAIN UNTIL THE *HECK* CONDITIONS HAVE

¹In 1965 plaintiff received six life sentences for five robbery convictions and a rape conviction, along with a 25-year sentence for assault with intent to commit rape and a three-year sentence for theft over \$50.00. Plaintiff was released on parole in 1977. In 1979, plaintiff received a 99-year sentence for aggravated robbery and, in 1988, he received a two-year sentence for possession of marijuana.

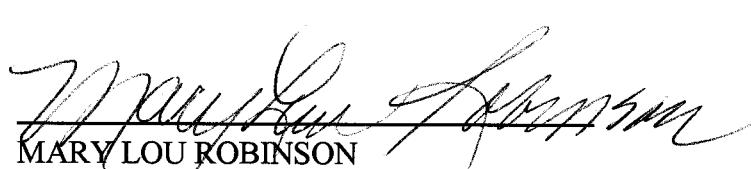
BEEN MET AND WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON
WHICH RELIEF CAN BE GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

All pending motions are DENIED.

IT IS SO ORDERED.

SIGNED AND ENTERED this 21st day of May, 2009.



MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE